

United States
Circuit Court of Appeals
For the Ninth Circuit.

E. E. YOUNG,

Plaintiff in Error,

vs.

CALIFORNIA STATE BOARD OF PHARMACY, E. T. OFF, G. M. SUTHERLAND, J. G. McKOWN, H. J. FINGER, E. J. MOLONY, H. O. BUKER, J. S. O'CALLAGHAN, H. M. MEADER and RAYMOND G. LINDLEY, Individually and as Members Constituting the said CALIFORNIA STATE BOARD OF PHARMACY,

Defendants in Error.

Transcript of Record.

Upon Writ of Error to the Southern Division of the
United States District Court of the
Northern District of California,
Second Division.

FILED
OCT 19 1920
F. D. MONCKTON,
CLERK.



United States
Circuit Court of Appeals
For the Ninth Circuit.

E. E. YOUNG,

Plaintiff in Error,

vs.

CALIFORNIA STATE BOARD OF PHARMACY, E. T. OFF, G. M. SUTHERLAND, J. G. McKOWN, H. J. FINGER, E. J. MOLONY, H. O. BUKER, J. S. O'CALLAGHAN, H. M. MEADER and RAYMOND G. LINDLEY, Individually and as Members Constituting the said CALIFORNIA STATE BOARD OF PHARMACY,

Defendants in Error.

Transcript of Record.

Upon Writ of Error to the Southern Division of the
United States District Court of the
Northern District of California,
Second Division.

INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

	Page
Affidavit of Louis Zeh.....	28
Amended Complaint	1
Assignment of Errors	35
Bond on Appeal	40
Certificate of Clerk U. S. District Court to Trans- cript of Record	43
Citation on Writ of Error.....	47
Demurrer of Defendant E. T. Off, Individually, to Amended Complaint	7
Demurrer of Defendants California State Board of Pharmacy et al.	12
Judgment of Dismissal on Sustained De- murrers.	33
Minutes of Court—March 1, 1920—Order Sus- taining Demurrers to Amended Complaint.	17
Minutes of Court—March 22, 1920—Order Deny- ing Motion to File Second Amended Com- plaint	32
Notice of Motion by Plaintiff for Leave to File Second Amended Complaint	19
Oral Opinion	18
Order Allowing Writ of Error.....	38
Order Denying Motion to File Second Amended Complaint	32

Index.	Page
Order Extending Time to and Including August 7, 1920, to File Record and Docket Cause	49
Order Extending Time to and Including September 6, 1920, to File Record and Docket Cause	50
Order Shortening Time of Service.....	20
Order Sustaining Demurrers to Amended Complaint	17
Petition for Writ of Error.....	34
Praecipe to Prepare Record on Writ of Error.	42
Second Amended Complaint	21
Writ of Error	44

In the Southern Division of the District Court of
the United States, in and for the Northern
District of California, Second Division.

No. 16,253.

ACTION FOR CONVERSION—\$25,000.00.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY, and E. T. OFF, J. O. McKOWN,
H. J. FINGER, E. J. MALONY, G. S.
O'CALLAGHAN, H. B. MEADER and
RAYMOND G. LINDLEY, Individually
and as Members Constituting Said CALI-
FORNIA STATE BOARD OF PHAR-
MACY,

Defendants.

Amended Complaint.

Comes now plaintiff above named and by leave
of the Court first had and obtained, files this his
amended complaint, and for cause of action against
said defendants and each of them, alleges:

I.

That at all times hereinafter mentioned the
defendant, California State Board of Pharmacy
was, ever since has been, and now is a duly organ-
ized and constituted board under the laws of the
State of California, and having its principal place
of business in the city and county of San Fran-
cisco, in said state, and within the jurisdiction of
the above-entitled court.

II.

That on or about the 1st day of May, 1919, the defendants, E. T. Off, J. O. McKown, H. J. Finger, E. J. Molony, J. S. O'Callaghan, H. B. Meader, and Raymond G. Lindley, were, ever since have been and are now members of the defendant, California State Board of Pharmacy. [1*]

III.

That on or about the 1st day of May, 1919, plaintiff was, ever since has been and now is the owner of the following described personal property, to wit:

115 ozs. Morphine Sulphate

165 ozs. Cocaine

2 lbs. Gum Opium.

IV.

That on or about said 1st day of May, 1919, certain of said personal property hereinbefore described, to wit:

100 ozs. morphine sulphate

100 ozs. cocaine

2 lbs. gum opium

were *in transitu* in interstate and foreign commerce from J. S. Merrill Drug Co., St. Louis, Missouri, to said plaintiff and C. F. McGinis, the consignees of said goods hereinbefore mentioned, in Mexicali, Northern District of Baja California, Republic of Mexico, through Wells-Fargo & Co. Express and W. I. McCoy. That prior to said 1st day of May, 1919, said C. F. McGinis transferred all his right, title and interest in and to said personal property

*Page-number appearing at foot of page of original certified Transcript of Record.

hereinbefore mentioned to plaintiff. That said W. I. McCoy was a regularly and duly licensed custom-house broker licensed by the United States and by the Republic of Mexico, and was a common carrier of goods from the United States to the Republic of Mexico.

V.

That on or about the 1st day of May, 1919, certain of said personal property hereinbefore described, to wit:

15 ozs. morphine sulphate

85 ozs. cocaine

were *in transitu* in interstate and foreign commerce from the Western Wholesale Drug Co., Los Angeles, California, to said plaintiff and said C. F. McGinis, the consignees of said goods hereinbefore mentioned, in Mexicali, Northern District of Baja, California, Republic of Mexico, through Wells-Fargo & Co. Express and said [2] W. I. McCoy.

VI.

That on or about the 1st day of May, 1919, said defendants had in their possession all of said goods hereinbefore mentioned; that on or about the 1st day of May, 1919, said plaintiff made demand upon said defendants for certain of said personal property, to wit: 115 ozs. of morphine sulphate, and thereafter and prior to the commencement of this action, said defendants and each of them failed and refused and still fail and refuse to deliver said 115 ozs. morphine sulphate to said plaintiff.

VII.

That on or about the 10th day of June, 1919,

said plaintiff demanded of said defendants and each of them certain of said personal property, to wit: 185 ozs. of cocaine and two pounds of gum opium, and to deliver same to said plaintiff, said defendants and each of them failed and refused, and ever since have failed and refused so to do.

VIII.

That the withholding of all of said personal property hereinbefore described was by said defendants willful, intentional, and without just cause or provocation therefor, and malicious, and without the consent of said plaintiff, and ever since said 1st day of May, 1919, and said 10th day of June, 1919, respectively as hereinbefore alleged, said withholding of all of said goods from said plaintiff has been and is now willful, intentional, and without just cause or provocation therefor, with malice, and without the consent of plaintiff, and for the purpose of oppressing said plaintiff, and that by reason thereof, plaintiff asks in addition to actual damages, the sum of Twelve Thousand (\$12,000.00) Dollars as punitive damages.

IX.

That the highest market value of said personal property [3] hereinbefore described was on or about the 15th day of June, 1919, the sum of Six Thousand (\$6,000.00) Dollars.

X.

That said plaintiff has expended and become obligated to pay in the pursuit of said personal property hereinbefore referred to, the sum of Seven Thousand (\$7,000.00) Dollars, which said sum is

a fair compensation for the time and money expended in the pursuit of said personal property.

XI.

That no part of the amounts herein set forth have been paid, and the whole thereof are now due, owing and unpaid.

XII.

That plaintiff is informed and believes and therefore alleges that said personal property has been destroyed by said defendants and each of them, and cannot be returned by said defendants or either of them to said plaintiff, or recovered by said plaintiff from said defendants or either of them.

WHEREFORE, plaintiff prays judgment against said defendants and each of them for

- (1) The sum of Six Thousand (\$6,000.00) Dollars, the highest market value of said personal property as set forth in the amended complaint, or such other sum as may be the highest market value up to the time of the verdict.
- (2) The sum of Seven Thousand (\$7,000.00) Dollars, as a fair compensation to said plaintiff in the pursuit of said personal property.
- (3) For the sum of Twelve Thousand (\$12,000.00) Dollars as punitive damages.
- (4) For costs of suit.

WILLIAM SEA, Jr.,

SAMUEL T. BUSH,

Attorneys for Plaintiff. [4]

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

William Sea, Jr., being first duly sworn, deposes and says: That he is one of the attorneys for plaintiff named in the foregoing amended complaint; that plaintiff is a citizen of the State of Arizona and resides in said State of Arizona, and without the Southern Division of the Northern District of California, where affiant has his law offices in the City and County of San Francisco, in said Southern Division of the Northern District of California, and for that reason affiant makes this verification.

That he has read said amended complaint and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters that he believes it to be true.

WILLIAM SEA, Jr.

Subscribed and sworn to before me this 9th day of January, 1920.

[Seal] LOUISE BEARDEN,
Notary Public in and for the City and County of
San Francisco, State of California.

Received a copy of the within this 9th day of January, 1920.

R. W. HARRISON,
Chief Deputy Atty. Genl.,
Attorney for Calif. State Board of Pharmacy.

JOHN F. DAVIS,
Of Counsel for said Board.

Received a copy of the within this 9th day of January, 1920.

JOHN F. DAVIS,
Attorney for Defendant, E. T. Off, Individually.

[Endorsed]: Filed Jan. 10, 1920. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [5]

In the Southern Division of the District Court of
the United States, in and for the Northern Dis-
trict of California, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY, and E. T. OFF, G. M. SUTHER-
LAND, J. C. McKOWN, H. J. FINGER,
E. J. MALONY, H. O. BUKER, J. S.
O'CALLAGHAN, H. B. MEADER, and
RAYMOND, G. LINDLEY, Individually
and as Members Constituting the said Cali-
fornia State Board of Pharmacy,
Defendants.

**Demurrer of Defendant E. T. Off, Individually, to
Amended Complaint.**

The defendant, E. T. Off, individually, hereby
demurs to the amended complaint filed in the
above-entitled action upon the following grounds:

I.

That the above-named court has no jurisdiction of the persons of said defendant.

II.

That the above-named court has no jurisdiction of the subject of the action.

III.

That the plaintiff has no legal capacity to sue in the above-entitled action.

IV.

That said amended complaint does not state facts sufficient to constitute a cause of action against said defendant.

V.

That said amended complaint is uncertain in that it cannot be determined therefrom how or in what manner said [6] defendants came into the possession of the goods mentioned in said amended complaint, or whether said possession alleged to have been acquired by said defendants was tortious or against the will and consent of said plaintiff.

VI.

That two causes of action in conversion are not separately stated in said amended complaint, in that a cause of action for the conversion of part of the personal property described in paragraph IV and part of the personal property described in paragraph V, which said conversion is alleged to have occurred on or about May 1, 1919, is included in the same court with a cause of action for the conversion of another part of the personal

property described in paragraph IV and another part of the personal property described in paragraph V, which said last conversion is alleged to have occurred on or about June 10, 1919.

VII.

That said amended complaint is uncertain in that it cannot be ascertained therefrom whether said defendants, or any of them, were in possession of any of the personal property mentioned in paragraph VI of said amended complaint when said plaintiff demanded of them possession thereof on or about May 1, 1919, as in said paragraph alleged.

VIII.

That said amended complaint is uncertain in that it cannot be ascertained therefrom whether said defendants, or any of them, were in possession of any of the personal property mentioned in paragraph VII of said amended complaint when said plaintiff demanded of them possession thereof on or about June 10, 1919, as in said paragraph alleged.

IX.

Said amended complaint is uncertain in that it cannot [7] be ascertained therefrom when the property was destroyed as in paragraph XII alleged.

X.

Said amended complaint is uncertain in that it cannot be ascertained therefrom whether the personal property referred to in paragraph IV as having been transferred to plaintiff, embraced only the property described in said paragraph IV or in-

cluded also the property described in paragraph III.

XI.

That said amended complaint is uncertain in that it cannot be ascertained therefrom under what law, if any, of the United States the matter in controversy set forth in said amended complaint arises, or in what manner the matter in controversy set forth in said amended complaint involves the construction of any law of the United States.

XII.

Said amended complaint is uncertain in that it is alleged in paragraphs IV and V thereof that certain personal property therein described was on or about May 1, 1919, *in transitu* in interstate commerce, and it is also alleged in paragraph VI that all of said personal property was on or about May 1, 1919, in the possession of the defendants, and it does not appear that defendants had anything to do with the transportation thereof.

XIII.

Said amended complaint is ambiguous in that it is alleged in paragraphs IV and V thereof that certain personal property therein described was on or about May 1, 1919, *in transitu* in interstate commerce, and it is also alleged in paragraph VI that all of said personal property was on or about May 1, 1919, in the possession of the defendants and it does not appear that defendants had anything to do with the transportation thereof, [8]

XIV.

Said amended complaint is ambiguous as to the

same matters and in the same respects as to which it is herein, alleged to be uncertain.

XV.

Said amended complaint is unintelligible as to the same matters and in the same respects as to which it is herein alleged to be uncertain.

WHEREFORE said defendant prays that plaintiff take nothing by said amended complaint as against said defendant, but that said action be dismissed as to him, and that he have judgment against plaintiff for his costs herein incurred.

JOHN F. DAVIS,

Attorney for Defendant E. T. Off, Individually.

W. L. ANDREWS,

Of Counsel for said Defendant E. T. Off,
Individually.

I HEREBY CERTIFY that in my opinion the above and foregoing demurrer is well taken in point of law and is not interposed for the purpose of delay.

JOHN F. DAVIS,

Attorney for said Defendant E. T. Off, Individually.

Received a copy of the within demurrer of Deft. E. T. Off, individually, to the amended complaint filed in the above-entitled matter, this 3d day of February, 1920.

Dated, Feb. 3, 1920.

WILLIAM SEA, Jr.,

SAMUEL T. BUSH,

Attorneys for Plaintiff.

[Endorsed]: Filed Feb. 3, 1920. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [9]

In the Southern Division of the District Court of
the United States, in and for the Northern Dis-
trict of California, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY, and E. T. OFF, G. M. SUTHER-
LAND, J. O. McKOWN, H. J. FINGER,
E. J. MALONY, H. O. BUKER, J. S.
O'CALLAGHAN, H. B. MEADER. and
RAYMOND, G. LINDLEY, Individually
and as Members Constituting the said Cali-
fornia State Board of Pharmacy,

Defendants.

**Demurrer of Defendants California State Board of
Pharmacy et al.**

The defendant California State Board of Phar-
macy, and the defendants E. T. Off, G. M. Suther-
land, J. O. McKown, H. J. Finger, E. J. Malony,
H. O. Buker, J. S. O'Callaghan, H. B. Meader and
Raymond G. Lindley, sued herein as members con-
stituting said board, and appearing herein in their
representative capacities as members of said board,
and not in their individual or personal capacities,
hereby demur to the amended complaint filed in

the above-entitled action upon the following grounds:

I.

That the above-named court has no jurisdiction of the persons of said defendants, or any of them.

II.

That the above-named court has no jurisdiction of the subject of the action. [10]

III.

That the plaintiff has no legal capacity to sue in the above-entitled action.

IV.

That said amended complaint does not state facts sufficient to constitute a cause of action against said defendants or any of them.

V.

That said amended complaint is uncertain in that it cannot be determined therefrom how or in what manner said defendants came into the possession of the goods mentioned in said amended complaint, or whether said possession acquired by said defendants was tortious or against the will and consent of said plaintiff.

VI.

That two causes of action in conversion are not separately stated in said amended complaint in that a cause of action for the conversion of part of the personal property described in paragraph IV, and part of the personal property described in paragraph V, which said conversion is alleged to have occurred on or about May 1, 1919, is included in the same count with a cause of action for the conversion of another

part of the personal property described in paragraph IV and another part of the personal property described in paragraph V, which said last conversion is alleged to have occurred on or about June 10, 1919.

VII.

That said amended complaint is uncertain in that it cannot be ascertained therefrom whether said defendants, or any of them, were in possession of any of the personal property [11] mentioned in paragraph VI of said amended complaint when said plaintiff demanded of them possession thereof on or about May 1, 1919, as in said paragraph alleged.

VIII.

That said amended complaint is uncertain in that it cannot be ascertained therefrom whether said defendants, or any of them, were in possession of any of the personal property mentioned in paragraph VII of said amended complaint when said plaintiff demanded of them possession thereof on or about June 10, 1919, as in said paragraph alleged.

IX.

Said amended complaint is uncertain in that it cannot be ascertained therefrom when the property was destroyed as in paragraph XII alleged.

X.

Said amended complaint is uncertain in that it cannot be ascertained therefrom whether the personal property referred to in paragraph IV as having been transferred to plaintiff embraced only the

property described in said paragraph or included also the property described in paragraph III.

XI.

That said amended complaint is uncertain in that it cannot be ascertained therefrom under what law if any of the United States the matter in controversy set forth in said amended complaint arises, or in what manner the matter in controversy set forth in said amended complaint involves the construction of any law of the United States.

XII.

Said amended complaint is uncertain in that it is alleged in paragraphs IV and V thereof that certain personal [12] property therein described was on or about May 1, 1919, *in transitu* in interstate commerce, and it is also alleged in paragraph VI that all of said personal property was on or about May 1, 1919, in the possession of the defendants and it does not appear that defendants had anything to do with the transportation thereof.

XIII.

Said amended complaint is ambiguous in that it is alleged in paragraphs IV and V thereof that certain personal property therein described was on or about May 1, 1919, *in transitu* in interstate commerce, and it is also alleged in paragraph VI that all of said personal property was on or about May 1, 1919, in the possession of the defendants and it does not appear that defendants had anything to do with the transportation thereof.

XIV.

Said amended complaint is ambiguous as to the

same matters and in the same respects as to which it is herein alleged to be uncertain.

XV.

Said amended complaint is unintelligible as to the same matters and in the same respects as to which it is herein alleged to be uncertain.

WHEREFORE, said defendants pray that plaintiff take nothing by said amended complaint, but that said action be dismissed as to them with their costs herein incurred.

U. S. WEBB,
Attorney General of the State of California,
ROBERT W. HARRISON,
Chief Deputy Attorney General,
Attorneys for said Defendants.
JOHN F. DAVIS,
Of Counsel for Said Defendants. [13]

I HEREBY CERTIFY that in my opinion the above and foregoing demurrer is well taken in point of law and is not interposed for the purpose of delay.

U. S. WEBB,
Attorney General of the State of California,
ROBERT W. HARRISON,
Chief Deputy Attorney General,
Attorneys for Said Defendants.

Receipt of a copy of the within demurrer this 3d day of February, 1920, is hereby admitted.

WILLIAM SEA, Jr.,
SAMUEL T. BUSH,
Attorneys for Plaintiff.

[Endorsed]: Filed Feb. 3, 1920. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [14]

At a stated term, to wit, the March term, A. D. 1920, of the Southern Division of the United States District Court for the Northern District of California, Second Division, held at the courtroom in the City and County of San Francisco, on Monday, the 1st day of March, in the year of our Lord one thousand nine hundred and twenty. Present: The Honorable WILLIAM C. VAN FLEET, District Judge.

No. 16,253.

E. E. YOUNG,

vs.

CALIFORNIA STATE BOARD OF PHARMACY et al.

**Minutes of Court—March 1, 1920—Order Sustaining
Demurrers to Amended Complaint.**

Defendants' demurrers to the amended complaint, heretofore heard and submitted, being now fully considered, and the Court having rendered its oral opinion, it is ordered that said demurrers be and the same are hereby sustained. [15]

(Title of Court and Cause.)

(Oral Opinion.)

Monday, March 2, 1920.

WM. SEA, Jr., and SAMUEL T. BUSH, for
Plaintiff.

ATTORNEY GENERAL, State of California, and
JOHN F. DAVIS, for Defendant.

The COURT (Orally): This action arises out of the seizure by defendants of certain poisonous drugs found in the possession of the plaintiff and his assignor under the claimed authority of the State Board to seize drugs of that character under the provisions of the State Poison Act.

A demurrer to the original complaint was sustained and the complaint has now been amended and the pleading is again demurred to.

The only ground upon which the action can be brought in this court is that it involves a federal question, there being no diversity of citizenship; but this complaint wholly fails to present such a controversy. There is an averment here that the property was, on a certain date, in the course of transit in interstate commerce, but it is wholly independent and unconnected with the averment as to the seizure of the goods. That is, there is no averment that they were in the course of such transit at the time of such seizure; therefore, the complaint does not disclose the existence of any federal question—something which is absolutely required in order to enable this court to retain jurisdiction.

Moreover, the complaint, in my judgment, wholly fails to state a cause of action against the defendants. The action is one in trover to recover damages for the alleged seizure and conversion of the property, and while it is alleged that a demand was made upon the defendants while the goods were in their possession, there is no allegation that at the time of such [16] demand they were illegally in their possession.

The demurrer will, therefore, be sustained on both those grounds.

[Endorsed]: Filed Mar. 12, 1920. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [17]

In the Southern Division of the District Court of
the United States, in and for the Northern Dis-
trict of California, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY et al.,

Defendants.

**Notice of Motion by Plaintiff for Leave to File
Second Amended Complaint.**

To the Above-named Defendants, and to U. S.
Webb, Esq., Attorney General, and to John F.
Davis, Esq., Their Attorneys:

YOU AND EACH OF YOU will please take

notice that the above-named plaintiff will, on Monday, the 8th day of March, 1920, at the hour of ten o'clock in the forenoon of said day, or as soon thereafter as counsel can be heard, move the above-entitled court, situated in the United States Post-office Building, corner of Seventh and Mission Streets, in the City and County of San Francisco, State of California, for an order granting leave to the above-named plaintiff to file his second amended complaint herein.

Said motion will be based on this notice, the second amended complaint heretofore served herein, and all the papers, records and proceedings herein, and made on the ground that said plaintiff has a good cause of action set forth in said second amended complaint; that all requirements to show jurisdiction in the above-entitled court, to wit; diversity of citizenship between the said plaintiff on the one hand, and the defendants on the other; that the cause of action set forth, in two counts, is for the conversion of goods of which the said plaintiff is the owner and [18] at the times of the demands alleged was entitled to the immediate possession of said goods, and is still so entitled.

WILLIAM SEA, Jr.,

SAMUEL T. BUSH,

Attorneys for Plaintiff.

Order Shortening Time of Service.

Good cause appearing therefor, it is hereby ordered that the foregoing notice of motion may be served on or before the 5th day of March, 1920, so that the said motion may be heard on Monday, the

8th day of March, 1920, and the time for service is hereby shortened accordingly.

Dated, March 4, 1920.

WM. C. VAN FLEET,
United States District Judge. [19]

(Title of Court and Cause.)

Second Amended Complaint.

Comes now the plaintiff above named and by leave of the Court first had and obtained, files this his second amended complaint, and for cause of action against said defendants and each of them, alleges:

I.

That at all times hereinafter mentioned the defendant, California State Board of Pharmacy, was, ever since has been, and now is, a duly organized and constituted board under the laws of the State of California, and having its principal place of business in the City and County of San Francisco, in said State, and within the jurisdiction of this Court.

II.

That on or about the 1st day of May, 1919, and for some time prior thereto, the defendants E. T. Off, J. O. McKown, H. J. Finger, E. J. Molony, J. S. O'Callaghan, H. B. Meader and Raymond G. Lindley were, ever since have been, and now are, members of the defendant, California State Board of Pharmacy.

III.

That the above-named plaintiff is a citizen of the State of Arizona.

IV.

That the above-named defendants are, and each one is, a citizen of the State of California.

V.

That on or about the 1st day of May, 1919, and for some time prior thereto, plaintiff was, ever since has been, and now is, the owner of and entitled to the immediate possession of the following described personal property, to wit:

115 ozs. of Morphine Sulphate in 1 oz. tins.

VI.

That on or about the 1st day of May, 1919, said defendants [20] had the above-described property in their possession; that said plaintiff on or about the 1st day of May, 1919, made demand upon said defendants to deliver said property to plaintiff, and thereafter and prior to the commencement of this action, said defendants wilfully and maliciously, and without just cause or provocation therefor, failed and refused, and still wilfully and maliciously, and without just cause or provocation therefor, fail and refuse to deliver the possession of said property to plaintiff.

VII.

That the withholding of said property from the possession of said plaintiff by said defendants was and is wilful, intentional, and without just cause or provocation therefor, and malicious, and without the consent of said plaintiff, and for the pur-

pose of harassing, annoying and oppressing said plaintiff, and that by reason thereof, plaintiff asks in addition to actual damage, the sum of Twelve Thousand (\$12,000.00) Dollars as unitive damages.

VIII.

That the highest market value of said property was on or about the 15th day of June, 1919, the sum of Six Thousand (\$6,000.00) Dollars.

IX.

That said plaintiff has expended and become obligated to pay in the pursuit of said personal property the sum of Seven Thousand (\$7,000.00) Dollars, which said sum is a fair compensation for the time and money expended in the pursuit of said property.

X.

That no part of the amounts herein set forth have been paid, and the whole thereof are now due, owing and unpaid.

For a SECOND, SEPARATE AND ADDITIONAL CAUSE OF ACTION against said defendants and each of them, plaintiff alleges: [21]

I.

That at all times hereinafter mentioned the defendant, California State Board of Pharmacy, was, ever since has been, and now is, a duly organized and constituted board under the laws of the State of California, and having its principal place of business in the City and County of San Francisco, in said State, and within the jurisdiction of this Court.

II.

That on or about the 10th day of June, 1919, and for some time prior thereto, the defendants, E. T. Off, J. O. McKown, H. J. Finger, E. J. Molony, J. S. O'Callaghan, H. B. Meander, and Raymond G. Lindley, were, ever since have been, and now are, members of the defendant, California State Board of Pharmacy.

III.

That the above-named plaintiff is a citizen of the State of Arizona.

IV.

That the above-named defendants, are, and each one is, a citizen of the State of California.

V.

That on or about the 10th day of June, 1919, and for some time prior thereto, plaintiff, was, ever since has been, and now is, the owner, and entitled to the immediate possession of, the following described personal property, to wit:

185 ozs. of cocaine muriate in 1 oz. bottles,

2 lbs. of gum opium,

$\frac{1}{8}$ oz. of morphine sulphate, sample.

VI.

That on or about the 10th day of June, 1919, said defendants had the above-described property in their possession; that said plaintiff on or about the 10th day of June, 1919, made demand upon said defendants to deliver said property of plaintiff, and thereupon and prior to the commencement of this action, said defendants wilfully and maliciously, and without just cause or provocation therefor,

failed and refused, and still wilfully [22] and maliciously, and without just cause or provocation therefor, fail and refuse to deliver the possession of said property to plaintiff.

VII.

That the withholding of said property from the possession of said plaintiff by said defendants was and is willful, intentional, and without just cause of provocation therefor, and malicious, and without the consent of plaintiff, and for the purpose of harassing, annoying and oppressing said plaintiff, and that by reason thereof, plaintiff asks in addition to actual damages, the sum of Twelve Thousand (\$12,000.00) Dollars as punitive damages.

VIII.

That the highest market value of said property was on or about the 15th day of June, 1919, the sum of Six Thousand (\$6,000.00) Dollars.

IX.

That said plaintiff has expended and become obligated to pay in the pursuit of said personal property the sum of Seven Thousand (\$7,000.00) Dollars, which said sum is a fair compensation for the time and money expended in the pursuit of said property.

X.

That no part of the amounts herein set forth have been paid, and the whole thereof are now due, owing and unpaid.

WHEREFORE, plaintiff prays judgment against said defendants and each of them for

(1) The sum of Six Thousand (\$6,000.00) Dol-

lars, the highest market value of said personal property, or such other sum as may the highest market value up to the time of the verdict;

(2) The sum of Seven Thousand (\$7,000.00) Dollars, as a fair compensation to said plaintiff in the pursuant of said property. [23]

(3) For the sum of Twelve Thousand (\$12,000.00) Dollars as punitive damages.

(4) Costs of suit.

WILLIAM SEA, Jr.,
SAMUEL T. BUSH,
Attorneys for Plaintiff.

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

William Sea, Jr., first duly sworn, deposes and says: That he is one of the attorneys of plaintiff named in the foregoing amended complaint; that plaintiff is a citizen and resident of the State of Arizona, and without the Southern Division of the Northern District of California, where affiant has his law office, in the City and County of San Francisco, and for that reason affiant makes this verification;

That he has read said second amended complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

WILLIAM SEA, Jr.

Subscribed and sworn to before me, this 2d day of March, 1920.

[Seal]

LOUISE BEARDEN,
Notary Public in and for the City and County of
San Francisco, State of California.

Received a copy of the within this 4th day of
March, 1920.

U. S. WEBB,
Atty. General,

ROBERT W. HARRISON,
Ch. Deputy Atty. Genl.,
Attorney for Certain Defts.,
Of Counsel for Certain Defendants.

Received a copy of the within this 4th day of
March, 1920.

JOHN F. DAVIS,
Attorney for Deft. Off, Individually. [24]

[Endorsed]: Filed Mar. 5, 1920. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [25]

In the Southern Division of the District Court of
the United States, in and for the Northern Dis-
trict of California, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY, and E. T. OFF, J. O. McKOWN,
H. J. FINGER, E. J. MOLONY, G. S.

O'CALLAGAN, H. B. MEADER and RAYMOND G. LINDLEY, Individually and as Members Constituting said California State Board of Pharmacy,

Defendants.

Affidavit of Louis Zeh.

State of California,

City and County of San Francisco,—ss.

Louis Zeh, being duly sworn, deposes and says: That affiant is now and has been continuously since the 15th day of July, 1909, secretary of the California State Board of Pharmacy, one of the defendants in the above-entitled action; that affiant has read the Complaint filed in said action on the 26th day of June, 1919, and the amended complaint thereafter filed therein and has also read the proposed second amended complaint served upon said defendant and as to which the plaintiff in said action seeks the permission of the above-named court to file the same in said action.

That affiant is familiar with and knows the circumstances surrounding and connected with the alleged possession by said defendants of the personal property described in said proposed second amended complaint. [26]

That on or about the 16th day of April, 1915, one Roy Jones, who was at said time a duly appointed and acting inspector of said defendant California State Board of Pharmacy, seized and took possession of said personal property at the City of Calexico, County of Imperial, in the State of California, as property then in the possession of said plaintiff

E. E. Young and one C. F. McGinis; that said property so seized and of which possession was then so taken is the same property as that described in said complaint, in said amended complaint and in said proposed second amended complaint; and that after said Roy Jones seized and took possession of said property as aforesaid said property was never afterwards in the possession of said plaintiff or of any of his agents.

That after said Jones took possession of said property as aforesaid a criminal prosecution was commenced in the month of April, 1915, in the Justices' Court of the Township of Calexico, in Imperial County in the State of California, against said plaintiff and said C. F. McGinis for having such property in their possession contrary to law.

That thereafter, and on or about the 8th day of November, 1915, said plaintiff, E. E. Young, and said C. F. McGinis, filed in the District Court of the United States, in and for the Southern District of California, a complaint wherein they sought from said court a writ of injunction restraining and prohibiting the Justice's Court of the Township of Calexico, and the defendants therein named including said State Board of Pharmacy and the members thereof, from ordering [27] the destruction of or destroying the said property; that upon the filing of said complaint an order was made and signed by Honorable William C. Van Fleet, as Judge of said United States District Court, on the 9th day of November, 1915, directing said defendants to appear and show cause on the 22d day of

November, 1915, why an injunction *pendente lite* should not issue as prayed for in said complaint; that thereafter, and after proceedings duly had in said action, and upon motion of the defendants therein, a decree was made by said court and entered and filed therein on the 6th day of December, 1915, dismissing said action.

That on or about the 27th day of September, 1915, said plaintiff, E. E. Young, and said C. F. McGinis, filed in the District Court of the United States, in and for the Southern District of California, a complaint in claim and delivery and for damages against the defendant therein, said California State Board of Pharmacy, in and by which said complaint they sought to recover from said defendant the possession of said personal property and damages for the retention thereof; that in said complaint, and in the second amended complaint therein, both of which were duly verified by said E. E. Young, it was alleged that before the commencement of said action, and on many occasions since the 16th day of April, 1915, the plaintiffs therein had demanded of said defendant California State Board of Pharmacy possession of said property and that said defendant had refused, and then still refused, to deliver to them possession thereof; that in said action, and in an amendment to the first amended complaint filed therein, duly verified by said E. E. Young, it was alleged that said plaintiff, E. E. Young, was a citizen and resident of the State of [28] California; that thereafter, and after said plaintiffs in said action had filed therein

their second amended complaint, and the defendant therein had duly filed therein its demurrer to said second amended complaint and had duly moved said court to dismiss said action, and after proceedings duly had in said action, said demurrer to said second amended complaint was, by the order of said court, sustained without leave to amend and said motion to dismiss was, by the order of said court, duly granted and said action was dismissed and judgment thereon was duly entered in said court on the 28th day of September, 1916.

That the property described in the said complaint in injunction heretofore mentioned, and in the second amended complaint in the action in claim and delivery heretofore mentioned, is the same property as that described in the original complaint in the above-entitled action, in the amended complaint therein, and in the proposed second amended complaint therein; and that since the date when said property was seized by said Roy Jones, as hereinbefore stated, said plaintiff has not, nor has any of his agents, nor has any person acting for or in conjunction with him, been in possession of said property or entitled to the possession of the same or any thereof.

LOUIS ZEH.

Subscribed and sworn to before me this 15th day of March, 1920.

[Seal]

LLOYD MACOMBER,
Notary Public in and for the City and County of
San Francisco, State of California.

Receipt of a copy of the within affidavit this 15th day of March, 1920, is hereby admitted.

WILLIAM SEA, Jr.,
SAMUEL T. BUSH,
Attorneys for Plaintiff.

[Endorsed]: Filed March 15, 1920. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk.
[29]

At a stated term, to wit, the March term, A. D. 1920, of the Southern Division of the United States District Court for the Northern District of California, Second Division, held at the courtroom, in the City and County of San Francisco, on Monday, the 22d day of March, in the year of our Lord one thousand nine hundred and twenty. Present: The Honorable WILLIAM C. VAN FLEET, District Judge.

No. 16,253.

E. E. YOUNG

vs.

CALIFORNIA STATE BOARD OF PHARMACY et al.

**Minutes of Court—March 22, 1920—Order Denying
Motion to File Second Amended Complaint.**

The plaintiff's motion for leave to file a second amended complaint, heretofore heard and submitted, being now fully considered and the Court having rendered its oral opinion, it is ordered that said motion be and the same is hereby denied. [30]

In the Southern Division of the United States District Court, in and for the Northern District of California, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHARMACY, and E. T. OFF, J. O. McKOWN, H. J. FINGER, E. J. MOLONY, G. S. O'CALLAGAN, H. B. MEADER and RAYMOND G. LINDLEY, Individually and as Members Constituting said California State Board of Pharmacy,

Defendants.

Judgment of Dismissal on Sustained Demurrers.

The Court having heretofore sustained the demurrers of the defendants to the amended complaint and having denied plaintiff's motion for leave to file a second amended complaint, and having ordered that this action be dismissed and that judgment be entered herein accordingly:

Now, therefore, by virtue of the law and by reason of the premises aforesaid, it is considered by the Court that plaintiff take nothing by this action and that defendants go hereof without day; and that said defendants do have and recover of and from said plaintiff their costs in this behalf expended taxed at \$——.

Judgment entered May 25, 1920.

WALTER B. MALING,
Clerk. [31]

In the Southern Division of the District Court of
the United States, in and for the Northern Dis-
trict of California, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY et al.,

Defendants.

Petition for Writ of Error.

To the Honorable District Court of the United
States, in and for the Southern Division of the
Northern District of California, and to the
Honorable District Judge thereof:

Now comes E. E. Young, the above-named plain-
tiff, through his attorney, William Sea, Jr., Esq.,
and feeling himself aggrieved by the judgment of
the above-entitled court made and entered herein,
whereby it was ordered and adjudged that the
above-entitled action be dismissed, petitions this
Court for an order allowing him to sue out a writ
of error to the United States Circuit Court of Ap-
peals in and for the Ninth Circuit under and ac-
cording to the laws of the United States in that be-
half made and provided, and that the clerk of this

Court transmit to the Clerk of the United States Circuit Court of Appeals in and for the Ninth Circuit a full, true and correct transcript of all the records and proceedings in the above-entitled case, together with the original assignment of errors, writ of error and citation.

WHEREFORE, your petitioner prays that this his petition be granted so that said judgment may be inspected and corrected in accordance with the law and justice.

WILLIAM SEA, Jr.,
Attorney for Plaintiff.

[Endorsed]: Filed May 28, 1920. Walter B. Maling, Clerk. [32]

In the Southern Division of the District Court of the United States, in and for the Northern District of California, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHARMACY et al.,

Defendants.

Assignment of Errors.

Now comes the above-named plaintiff by his attorney and specifies the following as the errors upon which he will rely and which he will urge

upon his writ of error in the above-entitled cause, to wit:

I.

The Court erred in sustaining the demurrer of the said defendant, California State Board of Pharmacy, and of the defendants, Off, McKown, Finger, Molony, O'Callaghan, Meader and Lindley, the present members constituting said defendant board, to the complaint of plaintiff.

II.

The Court erred in not overruling the demurrer of the defendant, California State Board of Pharmacy, and of the defendants, Off, McKown, Finger, Molony, O'Callaghan, Meader and Lindley, the present members constituting said defendant board, to the complaint of plaintiff.

III.

The Court erred in sustaining the demurrer of the defendant, Off, as an individual, to the complaint of plaintiff. [33]

IV.

The Court erred in not overruling the demurrer of the defendant, Off, as an individual, to the complaint of plaintiff.

V.

The Court erred in sustaining the demurrer of the defendant, California State Board of Pharmacy, and of the defendants, Off, McKown, Finger, Molony, O'Callahan, Meader and Lindley, the present members constituting said defendant board, to the amended complaint of plaintiff.

VI.

The Court erred in sustaining the demurrer of the defendant, Off, as an individual, to the amended complaint of plaintiff.

VII.

The Court erred in not overruling the demurrer of the defendant, California State Board of Pharmacy, and of the defendants, Off, McKown, Finger, Molony, O'Callahan, Meader and Lindley, the present members constituting said defendant board, to the amended complaint of plaintiff.

VIII.

The Court erred in not overruling the demurrer of the defendant, Off, as an individual, to the amended complaint of plaintiff.

IX.

The Court erred in denying the motion of plaintiff for leave to file his second amended complaint.

X.

The Court erred in not granting the motion of plaintiff for leave to file his second amended complaint. [34]

XI.

The Court erred in ordering the above-entitled action be dismissed.

XII.

The Court erred in ordering judgment of dismissal be entered in the above-entitled action.

XIII.

The Court erred in its judgment of dismissal in the above-entitled action.

WHEREFORE, plaintiff through his attorney, for the manifest errors committed by the Court, prays that the judgment of dismissal be reversed and that the above-entitled action be remanded to the Trial Court with direction to overrule the demurrers or permit plaintiff to file his second amended complaint, and for such other and further relief as to the Court may seem meet and proper.

WILLIAM SEA, Jr.,
Attorney for Plaintiff.

[Endorsed]: Filed May 28, 1920. Walter B. Maling, Clerk. [35]

In the District Court of the United States, in and for the Northern District of California, Southern Division, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHARMACY et al.,

Defendants.

Order Allowing Writ of Error.

The petition of E. E. Young, the above-named plaintiff, for a writ of error in the above-entitled action to the United States Circuit Court of Appeals in and for the Ninth Circuit coming on to be heard, the said plaintiff being represented by his attorney,

William Sea, Jr., Esq., and it appearing to the Court that said petition should be allowed and that a transcript of the records and proceedings in the above-entitled case upon which said judgment was rendered, properly certified, together with the original assignment of errors, writ of error and citation, should be sent to the United States Circuit Court of Appeals in and for the Ninth Circuit as prayed, in order that such proceedings may be had as may be just to correct any manifest errors as is alleged.

NOW, THEREFORE, IT IS ORDERED that a writ of error be and the same is hereby allowed and that the said writ of error issue out of and under the seal of the above-entitled court by the clerk thereof, upon bond being furnished by said E. E. Young, conditioned according to law in the sum of Three Hundred Dollars (\$300.00); that a true copy of the record, proceedings and papers upon which the said judgment in said cause was rendered, together with the assignment of errors, writ of error and citation, [36] duly certified according to law, shall be transmitted to the United States Circuit Court of Appeals in and for the Ninth Circuit in order that said Court may inspect the same and take such action thereon as it deems proper according to law and justice.

Dated May 28th, 1920.

FRANK H. RUDKIN,
United States District Judge.

[Endorsed]: Filed May 28, 1920. Walter B. Mal-
ing, Clerk. [37]

(Title of Court and Cause.)

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS, that we, E. E. Young, as principal, and L. H. Webber, and Mrs. Lillian Young, as sureties of the county of Imperial, State of California, are held and firmly bound unto the California State Board of Pharmacy et al., in the sum of three hundred dollars (\$300.00), lawful money of the United States to be paid to it and its respective successors; to which payment well and truly to be made we bind ourselves and each of us jointly, and severally, and each of our heirs, executors and administrators by these presents.

Sealed with our seals and dated this 2d day of June, 1920.

WHEREAS, the above-named E. E. Young has prosecuted a writ of error to the United States Circuit Court of Appeals in and for the 9th Circuit to reverse the judgment of the Second Division of the District Court of the Northern District of California in the above-entitled cause:

NOW, THEREFORE, the condition of this obligation is such that if the above-named E. E. Young shall prosecute his said appeal to effect and answer all costs if he fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and effect.

E. E. YOUNG.

L. H. WEBBER.

Mrs. LILLIAN YOUNG. [38]

State of California,
County of Imperial,—ss.

On the 2d day of June, 1920, personally appeared before me L. H. Webber and Mrs. Lillian Young, known to me to be the persons described in and who duly executed the foregoing instrument as parties thereto and respectively acknowledged, each for himself, that they executed the same as their free act and deed for the purposes therein set forth.

And the said L. H. Webber and Mrs. Lillian Young, being respectively by me duly sworn, says each for himself and not for the other that he is a resident and householder of the said county of Imperial, and that he is worth the sum of three hundred dollars (\$300.00), over and above his just debts and legal liabilities and property exempt from execution.

L. H. WEBBER.

Mrs. LILLIAN YOUNG.

Subscribed and sworn to before me this 2d day of June, 1920.

[Seal]

HARRY N. SWEET,

Notary Public in and for the County of Imperial,
State of California.

State of Arizona,
County of Cochise,—ss.

On this 5th day of June, 1920, personally appeared before me E. E. Young, known to me to be the person described in and who duly executed the same as his free act and deed for the purposes therein set forth.

And the said E. E. Young, being duly sworn, says that he is a resident and householder of the said County of Cochise, and that he is worth the sum of three hundred dollars (\$300.00), over and above his just debts and legal liabilities and property [39] exempt from execution.

E. E. YOUNG.

Subscribed and sworn to before me this 5th day of June, 1920.

[Seal] BERTHA H. PORTER,
Notary Public in and for the County of Cochise,
State of Arizona.

The within bond is approved, both as to sufficiency and form, this 8th day of June, 1920.

M. T. DOOLING,
U. S. District Judge.

[Endorsed]: Filed Jun. 8, 1920. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [40]

(Title of Court and Cause.)

Praeipie to Prepare Record on Writ of Error.
To the Clerk of said Court:

Sir: Please prepare record to docket on writ of error including the following papers:

1. Amended complaint.
2. Demurrers to amended complaint.
3. Order and opinion sustaining demurrers to amended complaint.
4. Notice of motion for leave to file second amended complaint.

5. Affidavit of Louis Zeh.
6. Order denying motion for leave to amend.
7. Judgment.
8. Petition for writ of error.
9. Assignment of errors.
10. Order allowing writ of error.
Original writ of error.
Original citation.
Bond on appeal.

WILLIAM SEA, Jr.,
Attorney for Plaintiff.

[Endorsed]: Filed Jul. 31, 1920. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [41]

In the Southern Division of the United States Dis-
trict Court, in and for the Northern District of
California, Second Division.

No. 16,253.

E. E. YOUNG,

Plaintiff,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY et al.,

Defendants.

**Certificate of Clerk U. S. District Court to Tran-
script of Record.**

I, Walter B. Maling, Clerk of the District Court
of the United States for the Northern District of
California, do hereby certify the foregoing forty-

one (41) pages, numbered from 1 to 41, inclusive, to be full, true and correct copies of the record and proceedings as enumerated in the praecipe for record on writ of error, as the same remain on file and of record in the above-entitled cause, in the office of the clerk of said court, and that the same constitute the return to the annexed writ of error.

I further certify that the cost of the foregoing return to writ of error is \$16.85; that said amount was paid William Sea, Jr., Esq., attorney for plaintiff, and that the original writ of error and citation issued in said cause are hereto annexed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 30th day of August, A. D. 1920.

[Seal] WALTER B. MALING,
Clerk United States District Court for the North-
ern District of California. [42]

Writ of Error.

UNITED STATES OF AMERICA,—ss.

The President of the United States of America, to the Honorable, the Judges of the District Court of the United States for the Northern District of California, GREETING:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between E. E. Young, plaintiff in error, and Cali-

fornia State Board of Pharmacy, and E. T. Off, G. M. Sutherland, J. G. McKown, H. J. Finger, E. J. Molony, H. O. Buker, J. S. O'Callaghan, H. B. Meader and Raymond G. Lindley, individually and as members constituting the said California State Board of Pharmacy, defendants in error, a manifest error hath happened, to the great damage of the said E. E. Young, plaintiff in error, as by his complaint appears:

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the City of San Francisco. in the State of California, within thirty days from the date hereof, in the said Circuit Court of Appeals, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable EDWARD D. WHITE,
Chief Justice of the United States, the 8th day of

June, in the year of our Lord one thousand nine hundred and twenty.

[Seal] WALTER B. MALING,
Clerk of the United States District Court for the
Northern District of California.

By J. A. Schaertzer,
Deputy Clerk.

Allowed by

FRANK H. RUDKIN,
U. S. District Judge. [43]

Received a copy of the within this 8th day of
June, 1920.

U. S. WEBB,
Attorney for Defts. California State Board of
Pharmacy and Defts. Sued as Members of said
Board.

Received a copy of the within this 8th day of
June, 1920.

JOHN F. DAVIS,
Of Counsel for Deft. California State Board of
Pharmacy, and Attorney for Deft. Off, Indi-
vidually.

(RETURN TO WRIT OF ERROR.)

The answer of the Judge of the District Court of
the United States, in and for the Northern District
of California, Second Division.

The record and all proceedings of the plaint
whereof mention is within made, with all things
touching the same, we certify under the seal of our
said Court, to the United States Circuit Court of
Appeals for the Ninth Circuit, within mentioned,
at the day and place within contained, in a certain

schedule to this writ annexed as within we are commanded.

[Seal]

WALTER B. MALING,
Clerk United States District Court, Northern District of California.

[Endorsed]: No. 16,253. United States District Court for the Northern District of California, Southern Division, Second Division. E. E. Young, Plaintiff in Error, vs. California State Board of Pharmacy et al., Defendants in Error. Writ of Error. Filed Jun. 9, 1920. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk.

Citation on Writ of Error.

UNITED STATES OF AMERICA,—ss.

The President of the United States, to California State Board of Pharmacy, and E. T. Off, G. M. Sutherland, J. C. McKown, H. J. Finger, E. J. Molony, H. G. Buker, J. S. O'Callaghan, H. B. Meader, and Raymond G. Lindley, Individually and as Members Constituting the said California State Board of Pharmacy,
GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of error duly issued and now on file in the Clerk's Office of the United States District Court for the

Northern District of California, Southern Division, Second Division, wherein E. E. Young is plaintiff in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, this 8th day of June, A. D. 1920.

M. T. DOOLING,

United States District Judge. [44]

Received a copy of the within this 8th day of June, 1920.

U. S. WEBB,

Attorney for Defts. California State Board of Pharmacy and Defts. Sued as Members of said Board.

JOHN F. DAVIS,

Of Counsel State Board of Pharmacy, and Atty. for Deft. Off, Individually.

[Endorsed]: No. 16,253. United States District Court for the Northern District of California, Southern Division, Second Division. E. E. Young, Plaintiff in Error, vs. California State Board of Pharmacy et al., Defendants in Error. Citation on Writ of Error. Filed Jun. 9, 1920. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk.

[Endorsed]: No. 3550. United States Circuit Court of Appeals for the Ninth Circuit. E. E. Young, Plaintiff in Error, vs. California State Board of Pharmacy, E. T. Off, G. M. Sutherland, J. G. McKown, H. J. Finger. E. J. Molony, H. O. Buker, J. S. O'Callaghan, H. M. Meader and Raymond G. Lindley, Individually and as Members Constituting the said California State Board of Pharmacy, Defendants in Error. Transcript of Record. Upon Writ of Error to the Southern Division of the United States District Court of the Northern District of California, Second Division.

Filed September 1, 1920.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

United States Circuit Court of Appeals for the
Ninth Circuit.

E. E. YOUNG,

Plaintiff in Error,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY et al.,

Defendants in Error.

**Order Extending Time to and Including August 7,
1920, to File Record and Docket Cause.**

Good cause being shown, IT IS HEREBY OR-
DERED that the plaintiff in error may have to and

including August 7, 1920, within which to file the record on writ of error and to docket the cause in the United States Circuit Court of Appeals for the Ninth Circuit.

Dated, July 8, 1920.

HUNT,
U. S. Circuit Judge.

[Endorsed]: No. 3550. United States Circuit Court of Appeals for the Ninth Circuit. Order under Subdivision 1 of Rule 16 Enlarging Time to and including Aug. 7, 1920, to File Record and Docket Cause. Filed Jul. 8, 1920. F. D. Monckton, Clerk. Re-filed Sep. 1, 1920. F. D. Monckton, Clerk.

In the United States Circuit Court of Appeals, in
and for Ninth Circuit.

E. E. YOUNG,

Plaintiff in Error,

vs.

CALIFORNIA STATE BOARD OF PHAR-
MACY et al.,

Defendants in Error.

**Order Extending Time to and Including September
6, 1920, to File Record and Docket Cause.**

Good cause appearing therefor, IT IS HEREBY ORDERED that the time of the Clerk of the District Court of the United States, in and for the Northern District of California, Southern Division, Second Division, to prepare and docket the tran-

script of the record in the above action be and the same is hereby extended and enlarged to and including the 6th day of September, 1920.

Dated August 6, 1920.

WM. W. MORROW,
U. S. Circuit Judge.

[Endorsed]: No. 3550. United States Circuit Court of Appeals for the Ninth Circuit. Order under Subdivision 1 of Rule 16 Enlarging Time to and including Sept. 6. 1920, to File Record and Docket Cause. Filed Aug. 6, 1920. F. D. Monckton, Clerk. Re-filed Sep. 1, 1920. F. D. Monckton, Clerk.

